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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.               | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------------|------------------|
| 10/521,222   | 08/12/2005  | Umberto Berti        | 10500-012                         | 7210             |
| 29391 7590 01/30/2007<br>BEUSSE WOLTER SANKS MORA & MAIRE, P. A.<br>390 NORTH ORANGE AVENUE<br>SUITE 2500<br>ORLANDO, FL 32801 |             |                      | EXAMINER<br>MCELHENY JR, DONALD E |                  |
|  |             |                      | ART UNIT                          | PAPER NUMBER     |
|  |             |                      | 2857                              |                  |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 01/30/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/521,222

Applicant(s)

BERTI, UMBERTO

Examiner

Donald E. McElheny, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08/12/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 32-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 32-62, the phrases "apt to", "apt to be", and/or "are able to" found throughout the claims render the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). It is unclear and indefinite exactly what is intended as the combination of structure or method steps that are actually required or not as part of the claimed invention. Correction is required.

Claims 54+ are drawn to a method, but contain plural desired results and implied operations of system components without clearly and stating positively in a manner what all steps are actually intended and part of the claimed combination. There appear to be only three actual steps of installing, storing, and processing. Due to the indefinite and ambiguous nature of these claims, it is near impossible to determine the actual intended inventive method desired to be covered.

Note the use of the adjective "critical" in various limitations is taken to be ill defined within the claims as such is subject to a subjective interpretation as to when, if ever, such would be deemed met. What would be "critical" varies depending upon what sensor data is being monitored, relative to what effect upon something is being monitored, what combinations of factors, what agency or individual preferences and

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criteria, etc. Unless this phrase is shown positively defined within the written specification for its basis of intended interpretation, meaning and breadth, it is deemed to be indefinite as to its claimed situation being met or not.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 32-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen et al. (5832187) in view of either of the references to Rott et al. (6212286), Brogi et al. (5734335) or Legaz et al. (5557260).

Due to the gross indefiniteness of the claims as to exactly what is intended to be part of the inventive combination or not, it is near impossible to determine the exact relevance of such claims with respect to how the prior art meets such. Nevertheless, even if the desired results and implied limitations were given weight, such would have been well within the knowledge of those skilled in the art as exemplified by the teachings of Pedersen et al. and these additional references for specific teachings of typical prior art portable mounted thermal imaging equipment used in environmental monitoring.

Pedersen et al. (5832187) teach installing fire monitoring devices (that may be portable, mobile, or permanent mount based) into the environment being monitored for fire hazards, such as a forest, monitoring and storing data of various thermal and optical temperature bands, as well as additional weather parameters, indicative of

environmental conditions. The conditions are analyzed, including in real time, at a central control system center for purposes of fire detection, fire prevention, and fire fighting strategies planning. Note the fire fighting resources 30, 40, are portable (and thus self powered) and said to also include detection sensor equipment, and taught may include well known fire surveillance and detection scanners (which as those skilled in the art knew may operate in rotatable and 360 degree scan modes). The risk analysis and response planning strategies are taught to be performed per the standard well known fire fighting practices, and tailored for the specific conditions of the environment being monitored.

More specific details of the remote sensor equipment are further taught by each of the references to Rott et al. (6212286), Brogi et al. (5734335) and Legaz et al. (5557260). These are portable, mounted on supports that provide 360 degree rotation, and may be ground based supports or tripods. Plural types of sensor data, including spectrum bands and weather related parameters, self power arrangements, communications aspects, etc. are taught. Thus any variations in the remote fire monitoring sensor devices/systems are thus taught they would have been notoriously well known in the art and those skilled in the art would have been motivated to be considered such alternatives for combination and inclusion as the remote devices to be used in the Pedersen et al. system without involving the concept of invention.

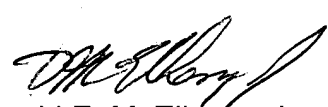
5. The remaining cited prior art is pertinent for teaching additional fire fighting monitoring systems, aspects of their various sensors, system communications, data analysis and response planning.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald McElheny, Jr. whose telephone number is 571-272-2218. The examiner can normally be reached on Monday-Thursday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoff Marc, can be reached on weekdays at telephone number 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Donald E. McElheny, Jr.  
Primary Examiner  
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